

CHILDREN AND FAMILIES

DIVISION OF YOUTH AND FAMILY SERVICES

Case Management

Proposed Readoption with Amendments: N.J.A.C. 10:133D

Amendments: N.J.A.C. 10:120A-1.3, 2.2 and 2.7, 10:122D-1.4, 1.6, and
2.4, 10:133E-2.3, and 10:133H-3.4 and 3.7

Authorized By: John Ducoff, Deputy Commissioner, Department of
Children and Families. _____

Authority: N.J.S.A. 30:4C-4(h) and 25 and 9:6-8.15

Calendar Reference: See Summary below for explanation of exception to
calendar requirement.

Proposal Number: PRN 2009-132

Submit written comments by July 3, 2009 to:

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The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978), N.J.A.C. 10:133D, Case Management, will expire on March 26, 2009. Pursuant to N.J.S.A. 52:14B-5.1c, this date is extended to September 22, 2009. The Division of Youth and Family Services (“Division” or “DYFS”) has reviewed these rules and has determined that they continue to be necessary, proper and reasonable for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978).

The Department of Children and Families has provided a 60-day comment period on this notice of proposal. Therefore, this notice is exempted from the rulemaking calendar requirements in accordance with N.J.A.C. 1:30-3.3(a)5.

These rules were initially adopted in 1993 and were readopted with amendments in 1998 and 2004.

Since the Division no longer plans to propose a Subchapter 1 of Chapter 133D, the Division has recodified Subchapter 2 to be Subchapter 1, Case Plan and Subchapter 3 to be Subchapter 2, In-Person Visits with Clients and Out-of-Home Placement Providers. The Division has amended the internal citations throughout the chapter to reflect the recodification.

Pursuant to the recodification of Subchapters 2 and 3 to Subchapters 1 and 2, the Division has recodified references to N.J.A.C. 10:133D throughout its rules, specifically at N.J.A.C. 10:120A-1.3, definition of Division service issue, N.J.A.C. 10:120A- 2.2(c), N.J.A.C. 10:122D-1.4(a) and 2.4(a) and (b), N.J.A.C. 10:133E-2.3(a) and 10:133H-3.4(a)3 and 3.7(d).

The Division readopted N.J.A.C. 10:120A with amendments at 41 N.J.R. 242(a), effective January 5, 2009. The Division discovered two technical errors in the notice of adoption. In N.J.A.C. 10:120A-1.3, definition of Division service issue, the service “DYFS Legal Guardianship Subsidy Program” is not listed in alphabetical order in the list of services. The Division has corrected the list of services to put DYFS Legal Guardianship Subsidy Program in alphabetical order. The Division is also removing a comma from N.J.A.C. 10:120A-2.7(b), as the Division neglected to remove it during the amendment of the subsection.

The Division readopted N.J.A.C. 10:122D with amendments at 41 N.J.R. 250(a), effective January 5, 2009. The Division discovered a technical error in N.J.A.C. 10:122D-1.6, where an “out-of-placement provider” is mentioned. The Division is amending this term to “out-of-home placement provider.” The Division has defined the term “out-of-home placement” at N.J.A.C. 10:133-1.3 and uses the generic term “out-of-home placement provider” to mean one who provides the out-of-home placement service as defined.

The Division has amended recodified N.J.A.C. 10:133D-1.4(a) to state that the case plan is developed with each family, rather than for each family. This amendment reflects the current practice of engaging the family members in the planning process.

Recodified N.J.A.C. 10:133D-1.4(a)1 has been amended to require that a case plan must be prepared within 60 days, rather than 45 days, of receiving a child protective services report or a child welfare services referral. The change to 60 days brings the rules in line with the Division's current practice. Adding the term "report" and "child welfare services" to the existing term "referral" brings the terminology up-to-date. The term "report" is defined in N.J.A.C. 10:129-1.3.

The Division is deleting part of recodified N.J.A.C. 10:133D-1.4(a)2 and all of paragraph (a)3, as well as the cross reference to these paragraphs in recodified N.J.A.C. 10:133D-1.4(a)1. The Division no longer accepts the informed consent of the parents as authority to place a child. Therefore it is not necessary to address which type of legal authority authorized the child's placement. The Division has also added "reentering" to recodified N.J.A.C. 10:133D-1.4(a)2 in order to emphasize the repeated placement plan required by N.J.S.A. 30:4C-53.3.

The Division has amended N.J.A.C. 10:133D-1.4(c) to require, rather than allow, that the case plan be revised if the case situation shows significant change. The Division is emphasizing the importance of ongoing planning with the family throughout the life of the case.

The Division has amended recodified N.J.A.C. 10:133D-1.5(a) to state that any person identified by the parent shall participate in the case plan development. This addition reflects the Division's focus on the family's primary role in developing the case plan.

Recodified N.J.A.C. 10:133D-1.5(b) has been amended to state that the case plan is developed with the participation of the out-of-home placement provider, rather than in consultation with the provider. This language promotes the sharing of vital information about the child by the out-of-home placement provider, who is considered part of the team working for the child's health, safety, welfare and permanency.

The Division has replaced language in recodified N.J.A.C. 10:133D-1.6(a) to contain strength-based terminology, which reflects the Division's strength-based approach to working with families. Problems are now needs and actions are now tasks. In addition the Division has added that identifying outcomes and supports is part of developing the case plan.

The Division is deleting recodified N.J.A.C. 10:133D-1.6(b) as this statement of preference in the ways of participating in the case plan development is now inaccurate. The Division expects that those who should participate in case plan development will participate in the way that they prefer. Subsection (c) has been recodified as subsection (b).

The Division has added a new N.J.A.C. 10:133D-1.7(a)2 to include the underlying needs of each family member in the case plan for each child

living at home. The Division believes that this is critical information to include in the case plan as it supports the planning for change.

Recodified N.J.A.C. 10:133D-1.7(a)5 has been amended to require that the case plan for a child living in his or her own home must include the supports used by the family. It must also include the supports and services that were provided to the family, rather than those offered to the family. Information about services that were offered, but not used, is no longer needed in the case plan. The Division has also added a requirement that any court-ordered service must be contained in the case plan, rather than requiring that it must be noted if any service stated in the case plan is court-ordered. The Division believes that it is important for the case plan to contain each court-ordered service.

The Division has replaced recodified N.J.A.C. 10:133D-1.7(b)1 to require the case plan for a child in out-of-home placement to state what the legal authority for the out-of-home placement is, rather than specifying the types of legal authority available at this time. This requires the case plan to contain the necessary information without using terminology that is subject to change.

The Division is amending recodified N.J.A.C. 10:133D-1.7(b)3 and 4 to state “each child,” rather than “the child” because the Division believes this language to be clearer.

The Division is removing “parent” and is adding “mother and father” to recodified N.J.A.C. 10:133D-1.7(b)5 to emphasize the importance of searching for missing fathers, as well as missing mothers.

The Division is correcting recodified N.J.A.C. 10:133D-1.7(b)11 to contain the heading of N.J.A.C. 10:122D-2, which was readopted with amendments at 41 N.J.R. 250(a), 254, on January 5, 2009. The Division is also amending (b)17 to state that the development of self-sufficiency skills begins at age 14, rather than 15, in accordance with the recent amendment to N.J.A.C. 10:122D-2.7, at 41 N.J.R. 250(a), 255.

The Division has amended recodified N.J.A.C. 10:133D-1.7(b)12 to state that the case plan must contain any stipulations reflected in a court order, as this is more accurate than “any court-ordered stipulations.”

The Division has revised the order of the points contained in recodified N.J.A.C. 10:133D-1.7(b)14 to a more logical order.

The Division has amended recodified N.J.A.C. 10:133D-1.7(c) to remove case goals no longer used by the Division and to add the new case goal of kinship legal guardianship.

An additional regulatory citation to N.J.A.C. 10:121C-2.5 has been added to recodified N.J.A.C. 10:133D-1.7(c)1 in order to accurately refer the reader to available information on child specific recruitment.

The Division has removed the placement of a child with a fit and willing relative, a legal guardian and another planned living arrangement, formerly codified at N.J.A.C. 10:133D-2.7(c)2, 3 and 4, and added information on kinship legal guardianship at recodified new paragraph (c)2, pursuant to 42 U.S.C. §671(a)28, 673(d), and 675(1)(F), amended by the Fostering Connections for Success and Increasing Adoptions Act (FCSIAA), effective October 7, 2008.

The Division is also amending recodified N.J.A.C. 10:133D-1.7 to include a new subsection (d). This subsection includes additional information on education for each child in out-of-home placement pursuant to 42 U.S.C. §671(a)(30)(D), 675(1)(G)(i) and 675(8)(B)(iv)(V), as amended by the FCSIAA.

The Division is amending recodified N.J.A.C. 10:133D-1.8(b) to state that the Division shall give participants in case planning a modified copy of the case plan when required by State and Federal confidentiality or child protection laws. The Division is required to follow confidentiality laws related to the disclosure of certain information and to follow laws requiring the protection of children.

The Division of Youth and Family Services was transferred to the new Department of Children and Families, pursuant to the Department of Children and Families Act, N.J.S.A. 9:3A-1 et seq., effective July 1, 2006. Recodified N.J.A.C. 10:133D-2.1 has been amended to reflect the change of Department.

The Division is amending recodified N.J.A.C. 10:133D-2.4 to remove subsection (b) and to remove the citation of subsection (a) from the text, as it is no longer necessary to cite the text. Subsection (b) has been deleted because the Division no longer makes out-of-home placements in para homes. The in-person visitation schedule for children placed in para homes has been removed from recodified N.J.A.C. 10:133D-2.6(d)1 for the same reason.

The Division has amended recodified N.J.A.C. 10:133D-2.5(a)5 to further recodify it as subsection (b). Separating subsection (b) from paragraphs (a)1 through 4 clarifies that the purpose of an in-person visit addressed in subsection (b) applies only to in-person visits with children in out-of-home placement.

Recodified N.J.A.C. 10:133D-2.6(a)1 has been amended to state that the in-person visitation schedule is determined based on tasks to be accomplished, rather than services to be provided. Division representatives do not provide services to families; rather their job consists of managing the services needed by the families. Division representatives have many tasks to accomplish so that the families they work with receive the services they need. Recodified N.J.A.C. 10:133D-2.6(b) has been amended to state that the Division representative manages the in-person visitation schedule, instead of monitoring and modifying it. This language better reflects the teamwork approach that the Division has adopted to work with families.

The Division has increased the required in-person visits with families. Recodified N.J.A.C. 10:133D-2.6(c) now requires that in-person visits occur between once a week to monthly, rather than from once a week to once every 12 weeks. The Division believes that frequent visits are necessary to produce good outcomes for children and families.

The Division has amended recodified N.J.A.C. 10:133D-2.6(d) to state that exceptional in-person visitation schedules are considered to be at least once every three months, rather than once every six months. More frequent contact is necessary to produce good outcomes for children and families. The Division has moved the level of authority to approve the once every three months in-person visitation schedule from the Assistant Director, Program Operations or Adoption Operations, to the local office manager. The local office manager is responsible for the families and employees within his or her office and has the authority to make this decision.

The Division has also reduced the situations in which a schedule of once every three months may be allowed. N.J.A.C. 10:133D-3.(d)2 has been deleted because the Division no longer has the authority to place children in long-term foster care custody. That program was repealed by P.L. #2004, c. 130, effective September 1, 2005. The Division has also specified that in-person visits of once every three months can only be approved for children placed in out-of-State treatment-based placement programs when the program is located further than 50 miles from the New Jersey border.

The Division has relocated the information formerly contained in recodified N.J.A.C. 10:133D-2.6(d)4 to 2.6(e), so that N.J.A.C. 10:133D-2.6(d) contains the information on children in out-of-State treatment-based placement programs and subsection (e) contains information on children in out-of-State resource family homes. Recodified N.J.A.C. 10:133D-2.6(e) now applies to all children placed with resource families who reside in another state, both those who move out of state with their resource family and those who were placed with a relative or resource family living in another state.

Children in out-of-State resource family homes are still visited four times per year, two times by the Division representative and two times by the agency supervising the out-of-home placement pursuant to the Interstate Compact on the Placement of Children, N.J.S.A. 9:23-5 et seq. The Division believes that putting each type of out-of-State placement in its own subsection clarifies the requirements. The Division has limited this reduced in-person visitation schedule to children in out-of-State resource family homes to those who live at a distance from New Jersey that precludes more frequent visitation.

The Division has amended recodified N.J.A.C. 10:133D-2.6(f) to use the current title, local office manager, rather than the title of office manager.

The Division has also amended recodified N.J.A.C. 10:133D-2.6(f)1 to allow an in-person visitation schedule of once every three months with parents who live out-of-State, instead of once every six months. Frequent

contact is needed with parents of children in out-of-home placement to ensure prompt permanent outcomes for children.

Recodified N.J.A.C. 10:133D-2.6(g) has been amended to require visits once every three months, rather than once every six months. This amendment is to bring subsection (g) in agreement with the amendments to subsections (d) and (e).

Initial in-person visits in recodified N.J.A.C. 10:133D-2.7(a)1 have been amended from the plural to the singular to agree with the use of the singular in paragraphs (a)2 and 3.

The Division is amending recodified N.J.A.C. 10:133D-2.7(a)3 to add that the initial in-person visit held with the prior custodial parent may take place in any mutually-agreed upon location. The Division wants to make every effort to meet the parent's needs.

The Division has added two new requirements regarding in-person visits when a child has been placed in an out-of-home placement, pursuant to Charlie and Nadine H., et al. v. Jon S. Corzine, as Governor and Kevin M. Ryan, as Commissioner, Modified Settlement Agreement, United States District Court for the District of New Jersey, Civ. Action No. 99-3678 (SRC), July 18, 2006, at new N.J.A.C. 133D-2.7(a)4 and 5. These standards require the Division representative to make at least two visits per month with each child for the first two months of each out-of-home placement and at least one visit per month thereafter. The Division

representative shall visit with the parent of each child with a case goal of reunification at least twice per month. The parent of each child with another case goal shall have at least one visit per month, unless his or her parental rights have been terminated.

The Division has amended the heading of recodified N.J.A.C. 10:133D-2.9 and subsections (a) and (b) to clarify that this section addresses only children placed in treatment-based out-of-home placement programs located further than 50 miles from the New Jersey border.

The Division has amended recodified N.J.A.C. 10:133D-2.10(a) to state that the Division representative makes in-person visits with, rather than to, the child, the parent and the out-of-home placement provider. This amendment reflects the Division's teamwork approach to working with families. The Division has also amended this subsection to require that the first in-person visit when a Division representative is assigned a case must take place within 10 working days of assignment, rather than within 20 days. The Division believes that quick and frequent in-person visits between the Division representative and the child are necessary to ensure positive outcomes for children and families.

A summary of the rules proposed for readoption follows:

N.J.A.C. 10:133D-2.1 states the purpose of the subchapter.

N.J.A.C. 10:133D-2.2 states the scope of the subchapter.

N.J.A.C. 10:133D-2.3 references the definitions of terms used in the subchapter.

N.J.A.C. 10:133D-2.4 states when a case plan is developed.

N.J.A.C. 10:133D-2.5 states who participates in the development of the case plan.

N.J.A.C. 10:133D-2.6 states the process used to develop the case plan.

N.J.A.C. 10:133D-2.7 states the contents of the case plan.

N.J.A.C. 10:133D-2.8 states who shall be asked to sign the case plan and who shall receive a copy of the case plan.

N.J.A.C. 10:133D-3.1 states the Division's authority to visit children under the Division's supervision.

N.J.A.C. 10:133D-3.2 states the purpose of the subchapter.

N.J.A.C. 10:133D-3.3 states the scope of the subchapter.

N.J.A.C. 10:133D-3.4 references the definitions used in the subchapter.

N.J.A.C. 10:133D-3.5 states the purpose of in-person visits.

N.J.A.C. 10:133D-3.6 states the criteria used to establish an in-person visit schedule.

N.J.A.C. 10:133D-3.7 states additional information about in-person visits when a child is placed outside of his or her home.

N.J.A.C. 10:133D-3.8 states when an in-person visit takes place after a child's change of placement.

N.J.A.C. 10:133D-3.9 states the requirements for in-person visits with children placed in a treatment-based out-of-home placement program.

N.J.A.C. 10:133D-3.10 states when an initial in-person visit is made.

N.J.A.C. 10:133D-3.11 states that a Division representative may interview a child alone during an in-person visit.

Social Impact

These rules affect each of the children receiving services from the Division, their families and their out-of-home placement providers. As of December 31, 2008, there were 47,163 children in 23,484 families receiving services, with 8,846 children in out-of-home placement. Each child receiving services must have a case plan and receive in-person visits.

Parents and out-of-home placement providers also receive in-person visits and participate in developing the case plan.

These rules have a positive effect on clients because they assure DYFS clients the opportunity to take part in the development of the case plan and to have regular in-person visits with the Division representative. The visits with the Division representative are extremely important as they are a primary means of communication about the progress toward meeting the case goal.

The rules continue to be necessary in order to ensure clients and out-of-home placement providers their rights to in-person visits and case plan participation.

Economic Impact

The rules have no economic impact on the clients and out-of-home placement providers that they affect.

The rules do have an on-going effect on the Division's income. The Division receives Federal appropriations under the Federal Social Security Act. The 2009 Federal Title IV-E appropriation is \$93,947,000. The 2009 Federal Title IV-B appropriation is \$10,557,000.

The rules support Federal requirements for each child in placement to have a case plan and be reviewed by a case review system. This includes in-

person visitation of children placed outside of the State. These requirements are in 42 U.S.C. §622(b)(8)(A)(ii) and (17), §624(e), §671(a)(15)(F), (16) and (30), §675(l), §675(5)(A)(ii), (B), and (5)(E)(ii) and (iii), and §679A(6).

Federal Standards Analysis

In order to receive Federal appropriations under Titles IV-B and IV-E of the Social Security Act, the State must have a state plan requiring a case plan and a case review for each child in out-of-home placement at 42 U.S.C. §671(a)(16) and §622(b)(8)(A)(ii). A case review includes a case plan. The terms “case plan” and “case review system” are defined at 42 U.S.C. §675(l) and (5).

42 U.S.C. §671(a)(30)(D) and 675(8)(B)(iv)(V) require the case plan to contain information explaining a child’s medical condition if the medical condition prevents the child from attending school on a full-time basis. The Division has amended recodified N.J.A.C. 10:133D-1.7 to include a new paragraph (d)2 to contain this new case plan requirement.

42 U.S.C. §622(b)(17) requires that the state have standards which ensure that a child in foster care is visited, at a minimum, on a monthly basis by the caseworker. This Federal requirement is supported by 42 U.S.C. §624(e)(1) and §679b(6). The Division is requiring that for the first two months of out-of-home placement, a child is visited by the Division representative at least twice a month. The Division is proposing this

standard in rules as the Division has agreed to it in Charlie and Nadine H., et al, v. Jon S. Corzine, as Governor, and Kevin M. Ryan, as Commissioner, Modified Settlement Agreement, United States District Court for the District of New Jersey, Civ. Action No. 99-3678 (SRC), July 18, 2006, III B 7 and 8.

42 U.S.C. §675(1)(D) and (5)(C) require that the case plan contain a description of programs and services which will help a child age 16 and over prepare for the transition from foster care to independent living. Recodified N.J.A.C. 10:133D-1.7(b)17 requires that this information be included in a child's case plan beginning at age 14. The Division believes that it is important to begin this planning by age 14 in order to plan the child's high school course work to meet his or her educational and career goals.

42 U.S.C. 675(5)(A)(ii) requires that each child who is placed out-of-State be visited in his or her home or institution no less frequently than once every six months and that the case plan contain a report about each visit. Recodified N.J.A.C. 10:133D-2.6(d) and (e) require in-person visits once every three months. The Division believes that quarterly visits with New Jersey children placed out-of-State are crucial to implementing a permanent case goal for each child.

Jobs Impact

The Division does not expect that the rules proposed for readoption with amendments will result in the generation or loss of any job.

Agriculture Industry Impact

The rules proposed for readoption with amendments have no impact on the agriculture industry.

Regulatory Flexibility Statement

Neither the Division, nor the Division's clients are considered a small business as defined in N.J.S.A. 52:14B-16 et seq., the Regulatory Flexibility Act. Most of the Division's out-of-home placement providers are not businesses. They are licensed resource parents providing care for children individually in their own homes. They are not employees of the Division. There are out-of-placement facilities that may be considered small businesses under the statutory definition, such as group homes and treatment-based out-of-home placement programs. Even though some are small businesses, the requirements of the rules do not impose reporting, recordkeeping or compliance requirements on any out-of-home placement providers. Therefore, a regulatory flexibility analysis is not necessary. The rules proposed for readoption with amendments state the Division's policies on case plans and in-person visits.

Smart Growth Impact

The Division does not anticipate that the rules proposed for readoption with amendments will have any impact on the achievement of smart

growth or the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The rules proposed for readoption with amendments will have no impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules pertain to case management for children placed with out-of-home placement providers.

Smart Growth Development Impact

The rules proposed for readoption with amendments will have no impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 within designated centers under the State Development and Redevelopment Plan in New Jersey because the rules pertain to case management for children placed with out-of-home placement providers.

CHAPTER 120A

DISPUTE RESOLUTION

SUBCHAPTER 1. INTRODUCTION AND OVERVIEW

10:120A-1.3 Definitions

(a) The definitions in N.J.A.C. 10:122B-1.3 and 10:133-1.3 are hereby incorporated by reference. In addition, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

...

“Division service issue” means a Division action affecting a case goal or a case plan necessary to achieve a case goal, as allowed in N.J.A.C. 10:121-2.4 and 10:133D-[2] 1, and limited to: the denial of a request for, or the reduction, suspension or termination by a Division representative of the following services, as defined in N.J.A.C. 10:133-1.3 and listed in N.J.A.C. 10:133E-2: child care, [DYFS Legal Guardianship Subsidy Program,] discharge planning and aftercare services, domestic violence services, DYFS Legal Guardianship Subsidy Program, educational support, emergency maintenance service, family preservation services, health care services, homemaker service, mentor services, out-of-home placement, post-adoption services, pre- and post-natal services, psychological/therapeutic services, respite care, self-sufficiency skills,

substance abuse services, Title XIX Medicaid, transportation; or parent and child visitation as described in N.J.S.A. 9:6B-4 and N.J.A.C. 10:122D-1; or the failure of a Division representative to act with reasonable promptness on a request for any of the above services.

...

SUBCHAPTER 2. GENERAL PROVISIONS FOR DIVISION DISPUTE RESOLUTION AND ADMINISTRATIVE HEARINGS

10:120A-2.2 Notice of Division action to a parent

(a)-(b) (No change.)

(c) Notice of the Division action shall be provided in any one or more Division documents distributed to the parent specifically, as in a case plan, in accordance with N.J.A.C. 10:133D-[2] 1, or generally, as in a handbook or other publication, which is distributed in the routine course of business, through oral communication or any combination thereof.

(d)-(g) (No change.)

10:120A-2.7 Final agency decision

(a) (No change.)

(b) For each agency decision, the Commissioner or designee[,] shall:

1.-2. (No change.)

(c)-(g) (No change.)

CHAPTER 122D

SERVICES FOR CHILDREN IN OUT-OF-HOME PLACEMENT

SUBCHAPTER 1. VISITS BETWEEN THE CHILD AND THE CHILD'S FAMILY

10:122D-1.4 Visitation plan

(a) A written visitation plan shall be developed to identify the type and frequency of visits to be instituted for every child in out-of-home placement unless otherwise directed by the court. The visitation plan is included in the case plan, in accordance with N.J.A.C. 10:133D-[2.7(b)7] 1.7(b)7.

(b)-(d) (No change.)

10:122D-1.6 Distribution of the visitation plan

The Division representative shall give a copy of the visitation plan to the parent, the out-of-home placement provider, the child, when of an

appropriate age, and other parties, including siblings, who are involved in developing the visitation plan[,] and their representatives.

SUBCHAPTER 2. SERVICES TO CHILDREN IN OUT-OF-HOME PLACEMENT

10:122D-2.4 Case management

(a) The Division representative shall have face-to-face and other contact with the child, out-of-home placement provider, parent and other interested parties according to N.J.A.C. 10:133D-[3] 2 and which is written in the case plan in order to:

1.-6. (No change.)

(b) The Division representative shall have face-to-face contact with the parent, when applicable, the out-of-home placement provider[,] and the child in accordance with N.J.A.C. 10:133D-[3.7, 3.8 and 3.9] 2.7, 2.8 and 2.9.

CHAPTER 133D CASE MANAGEMENT

SUBCHAPTER [2.] 1. CASE PLAN

Recodify existing N.J.A.C. 10-2.1-2.3 as 1.1-1.3 (No change in text.)

10:133D-[2.4]1.4 When a case plan is developed

(a) A case plan shall be developed [for] with each family for whom services will be provided. The Division representative shall prepare the case plan:

1. Within [45] 60 calendar days of receipt of a report, as defined at N.J.A.C. 10:129-1.3, or a child welfare services referral or application[, unless either (a)2 or 3 below applies]; or

2. Within 30 calendar days of a child entering or reentering out-of-home placement [by court order; or].

[3. Within 15 business days of a child entering out-of-home placement by the informed consent of the parents.]

(b) (No change.)

(c) The case plan [may] shall be revised more often than the standard set forth in (a) and (b) above, if the case situation shows significant change.

10:133D-[2.5]1.5 Participants in developing the case plan

(a) The Division representative shall develop the case plan with the child's parent, unless he or she is unwilling to participate, any person

identified by the parent to participate, any person appointed by the court for this purpose and the child, if the Division representative determines that the child is willing and able to participate in the development of the case plan, in accordance with this subchapter. Other interested parties or service providers may be invited to participate.

(b) In addition to (a) above, when the child lives in an out-of-home placement, the Division representative shall develop the case plan [in consultation] with the participation of each child's out-of-home placement provider.

10:133D-[2.6]1.6 Process of developing the case plan

(a) Participation in developing the case plan shall include providing information, identifying [problems, identifying] needs, outcomes, supports, services and [actions] tasks, which are needed to [resolve] meet the [problems] needs and achieve the case goal, suggesting the time frames for beginning and completing the identified services and [actions,] tasks and specifying who is responsible for completing the identified services and [actions] tasks.

[(b) The participants in the case plan may participate in descending order of preference by:

1. Meeting together with the Division representative to discuss the case plan;

2. Meeting individually with the Division representative;
3. Providing written information to the Division representative; or
4. Talking with the Division representative by telephone.]

[(c)] (b) (No change in text.)

10:133D-[2.7]1.7 Contents of the written case plan

(a) The written case plan for a family with the child living at home shall include:

1. (No change.)
2. The underlying needs of each family member;

[2.] 3. (No change in text.)

[3.] 4. The schedule for contacts between the Division representative and the family members, pursuant to N.J.A.C. 10:133D-[3]2, In-Person Visits with Clients and Out-of-Home Placement Providers;

[4.] 5. The supports and services [offered] provided to and used by the family since the last case plan was developed, for each case plan after the initial case plan. [and if] If any service is court-ordered, the case plan shall contain that service;

Recodify existing 5.- 7. as 6.-8. (No change in text.)

(b) The written case plan for a child in an out-of-home placement shall include:

[1. Whether a court ordered the placement or the parent signed an informed consent agreement authorizing the placement;]

1. The legal authority for the out-of-home placement;

2. (No change.)

3. The case goal for [the] each child, the progress towards its achievement[,] and any obstacles to reaching it;

4. An assessment of the safety and appropriateness of the current placement and the plan to assure that [the] each child receives safe and appropriate care;

5. The efforts made to find a missing [parent] mother and father, or relative, pursuant to N.J.S.A. 30:4C-12 et seq.;

6. The schedule for contacts between the Division representative and the family members, pursuant to N.J.A.C. 10:133D-[3]2, In-Person Visits with Clients and Out-of-Home Placement Providers;

7.- 10. (No change.)

11. The services or actions intended to meet the identified needs and who is responsible to provide the services and complete the activities, with projected time frames, as well as the appropriateness of the services for the child. See N.J.A.C. 10:122D-2, Services to Children in [Foster] Out-of-Home Placement;

12. Any [court-ordered] stipulations reflected in a court order;

13. (No change.)

14. How the placement is safe, near the parent's home and the least restrictive and most family-like available [and near the parent's home,] consistent with the best interest and special needs of the child;

15. – 16.(No change.)

17. Programs and services to help the child transition from out-of-home placement to self-sufficiency skills, for a child age [15] 14 or older, in accordance with N.J.A.C. 10:122D-2.7.

(c) The written case plan for a child in an out-of-home placement and whose case goal is either adoption[, long-term foster care custody or permanency with a relative or family friend,] or kinship legal guardianship shall include the steps the Division representative is taking to place the child with:

1. An adoptive family, including child specific recruitment efforts, such as the use of adoption resource exchanges in accordance with N.J.A.C. 10:121C-2.4 and 2.5, and to finalize the adoption; or

[2. A fit and willing relative;

3. A legal guardian and to finalize the legal guardianship;
or

4. Another planned permanent living arrangement.]

2. A relative or caregiver who is willing to assume care of a child, become a kinship legal guardian and finalize the kinship legal guardianship, after steps are taken to determine that reunification and adoption are neither feasible nor appropriate and the child meets the eligibility requirements for kinship legal guardianship.

(d) The case plan for a child in out-of-home placement shall include documentation of:

1. The appropriateness of the child's current educational setting; and

2. A child's inability to attend school on a full-time basis due to the child's medical condition.

[(d)] (e) (No change in text.)

10:133D-[2.8]1.8 Notice of the case plan

(a) (No change.)

(b) The Division representative shall give a copy of the case plan to each person who signs the case plan, including the out-of-home placement provider, and to each parent who declines to participate in or sign the case plan. The Division shall give a modified copy of the case plan to those who participated in the developing the case plan and to each parent who declined to participate in or sign the case plan, when required by State and Federal confidentiality or child protection laws.

SUBCHAPTER [3.] 2. IN-PERSON VISITS WITH CLIENTS AND
OUT-OF-HOME PLACEMENT PROVIDERS

10:133D-[3.1.]2.1 Authority

N.J.S.A. 30:4C-25 requires the Division of Youth and Family Services, Department of [Human Services] Children and Families to regularly visit all children under its care, custody[,] and supervision.

10:133D-[3.2]2.2 (No change in text.)

10:133D-[3.3] 2.3 Scope

The provisions of this subchapter shall apply to each child receiving services from the Division, his or her parent[,] and each out-of-home placement provider of a Division-supervised child[,] and to the Division.

10:133D-[3.4] 2.4 Definitions

[(a)] The definitions in N.J.A.C. 10:133-1.3, Definitions, are hereby incorporated into this subchapter by reference.

[(b)] The following term shall have the following meaning within this subchapter, unless the context clearly indicates otherwise:

“Para home” means a private family residence in which a person provides care to the child and where someone other than the Division

placed the child and where the Division pays for the child's care after the Division approves the home.]

10:133D-[3.5]2.5 Purpose of in-person visits by the Division representative

(a) Each in-person visit by the Division representative shall be made for one or more of the following purposes:

1.-2. (No change.)

3. To determine what progress is being made toward achieving the case goal; or

4. To determine whether barriers to achieving the case goal are being alleviated[; or].

[5.] (b) [For] Each in-person visit by a Division representative with a child in out-of-home placement[,] shall be made to determine the child's adjustment to and progress in the out-of-home placement and to obtain information and concerns about the child from the out-of-home placement provider and the child, in addition to the purposes in (a) above.

10:133D-[3.6]2.6 Establishing a schedule for in-person visits

(a) The Division representative and supervisor shall establish a schedule for each child, his or her parent[,], and out-of-home placement provider[,], based on the following:

1. The [services] tasks to be [provided] accomplished directly by the Division representative;

2.-4. (No change.)

(b) The supervisor and the Division representative shall [monitor and modify] manage the schedule when appropriate.

(c) Each established schedule for in-person visits shall fall between a range of once every week to [once every 12 weeks] monthly, except as provided in (d) and (f) below.

(d) The [Assistant Director, Program or Adoption Operations,] local office manager may approve an in-person visitation schedule of once every [six] three months for a child, parent[,], or out-of-home placement provider, when a child resides in[:]

[1. A para home where the only Division service is financial, and appropriate parenting has been demonstrated over a six month period of time during which the Division representative has made each in-person visit scheduled in accordance with (c) above;

2. A formalized long-term foster care custody placement per P.L. 1992, c.139, N.J.S.A. 30:4C-26.10 et seq., and the foster parents have demonstrated the ability to handle all parental responsibilities without close monitoring by the Division;]

[3. An] an out-of-State treatment-based out-of-home placement program further than 50 miles of the New Jersey State border that precludes in-person visitation more frequently than once every [six] three months[; or].

4. An out-of-State foster home that precludes in-person visitation more frequently than once every six months.]

(e) [In addition to the in-person visitation required in (d)4 above,] For a New Jersey child who [has moved] resides with his or her [foster] resource family [to] in another state [is also supervised], where the distance from New Jersey precludes in-person visitation more frequently than once every six months, the local office manager may approve a yearly in-person visitation schedule of two in-person visits by the Division representative and two in-person visits by an agency pursuant to the Interstate Compact on the Placement of Children, N.J.S.A. 9:23-5 et seq.

(f) The local office manager may approve:

1. An in-person visitation schedule of once every [six] three months for a parent when the parent lives out-of-State at a distance, which precludes more frequent in-person visitation and the case plan

indicates a continuing need for interaction between the parent and the Division representative; or

2. (No change.)

(g) Whenever an in-person visitation schedule of once every [six] three months has been approved under the provision of (d) above, the Division representative shall maintain monthly telephone contact between visits with all parties, as well as with collateral individuals; for example, school personnel.

(h) (No change.)

10:133D-[3.7]2.7 In-person visitation when a child is placed out of his or her own home

(a) In addition to the visits made in accordance with the provisions of N.J.A.C. 10:133D-[3.6]2.6, Establishing a schedule for in-person visits, whenever a child is placed out of his or her own home:

1. [Initial] An initial in-person visit[s] with the child, the prior custodial parent[,], and the out-of-home placement provider shall be made by the Division representative within five working days following the child's placement out of his or her own home;

2. The visit with the child shall occur in the home of the out-of-home placement provider;[and]

3. The in-person visit with the prior custodial parent may occur in either the parent's home, [or] the office[,] or other mutually-agreed upon location;

4. During the first two months of an initial or a subsequent placement, each child shall receive at least two in-person visits per month, with at least one visit occurring in the home of the out-of-home placement provider and at least one visit per month thereafter, occurring in the home of the out-of home placement provider; and

5. Each parent of a child with a case goal of reunification shall receive at least two in-person visits per month and each parent of a child with another case goal shall receive at least one visit per month, unless parental rights have been terminated.

10:133D-[3.8]2.8 (No change in text.)

10:133D-[3.9]2.9 Placement in a treatment-based out-of-home placement program further than 50 miles from the New Jersey State border

(a) [The] When a child is placed in a treatment-based out-of-home placement program further than 50 miles from the New Jersey State border, the Division representative shall speak with the child by telephone within five working days of the child's placement in a treatment-based out-

of-home placement program, unless contraindicated by the individual treatment plan for the child.

(b) [Within 30 calendar days of placement in a treatment-based out-of-home placement program] When a child is placed in a treatment-based out-of-home placement program further than 50 miles from the New Jersey State border, the Division representative shall visit the child and attend the conference to develop the child's treatment plan within 30 calendar days of placement.

10:133D-[3.10]2.10 Initial in-person visit

(a) In addition to the standards set by N.J.A.C. 10:133D-[3.7, 3.8 and 3.9]2.7, 2.8 and 2.9, the Division representative shall make an in-person visit [to] with the child[,] the parent, and the out-of-home placement provider, if applicable, in the child's residence within [20] 10 working days when:

1.-2. (No change.)

10:133D-[3.11]2.11 (No change in text.)

CHAPTER 133E

SERVICES

SUBCHAPTER 2.

SERVICE

10:133E-2.3 Services to consider for the case plan

(a) In developing the case plan in accordance with N.J.A.C. 10:133D-[2]1, the Division representative shall consider:

1.-5. (No change.)

(b) (No change.)

CHAPTER 133H

GENERAL PLACEMENT PROVISIONS

SUBCHAPTER 3. REVIEW OF CHILDREN IN OUT-OF-HOME PLACEMENT OR CARE PROVIDED BY A RELATIVE

10:133H-3.4 Determination of whether out-of-home placement or care provided by a relative should continue

(a) In deciding whether the out-of-home placement or care provided by a relative should continue, the Division shall consider and determine the following:

1.-2. (No comment.)

3. Whether the Division in the provision of services has made reasonable efforts to return the child home and the failure to achieve

that return home is not due to a lack of appropriate Division services or actions, as specified in the case plan, see N.J.A.C. 10:133D-[2]1;

4.-8. (No comment.)

10:133H-3.7 Convening and conducting the Division placement review

(a)-(c) (No change.)

(d) The Division shall inform the parent, in accordance with N.J.A.C. 10:133D-[2.8(b)]1.8(b), the child, if appropriate, and the Child Placement Review Board of the outcome of the Division's placement review, except that those persons cited in N.J.A.C. 10:133H-3.6(a)2 and 6 and [3.6(b)](b) may receive only that information from the placement review, which has a direct effect on the care or services being provided by that person or professional. The Division shall inform legal counsel for the child, the parent or the Division of the outcome of the placement review upon the request of each legal counsel.

(e) (No change.)